

SENIOR CITIZENS HOUSING SAFETY AND ECONOMIC
RELIEF ACT OF 1995

OCTOBER 18, 1995.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. LEACH, from the Committee on Banking and Financial
Services, submitted the following

R E P O R T

together with

MINORITY AND ADDITIONAL VIEWS

[To accompany H.R. 117]

[Including cost estimate of the Congressional Budget Office]

The Committee on Banking and Financial Services, to whom was referred the bill (H.R. 117) to amend the United States Housing Act of 1937 to prevent persons having drug or alcohol use problems from occupying dwelling units in public housing projects designated for occupancy by elderly families, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Senior Citizens Housing Safety and Economic Relief Act of 1995”.

SEC. 2. AUTHORITY FOR PUBLIC HOUSING AGENCIES TO PROHIBIT ADMISSION OF DRUG OR ALCOHOL ABUSERS TO ASSISTED HOUSING.

Section 16 of the United States Housing Act of 1937 (42 U.S.C. 1437n) is amended—

- (1) in the section heading by striking “INCOME”; and
- (2) by adding at the end the following new subsection:

“(e) AUTHORITY TO LIMIT ADMISSION OF DRUG OR ALCOHOL ABUSERS.—

“(1) IN GENERAL.—Notwithstanding any other provision of law, a public housing agency may establish standards for occupancy in public housing dwelling units and assistance under section 8, that prohibit admission to such units and assistance under such section by any individual—

“(A) who currently illegally uses a controlled substance; or

“(B) whose history of illegal use of a controlled substance or use of alcohol, or current use of alcohol, provides reasonable cause for the agency to believe that the occupancy by such individual may interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents.

“(2) CONSIDERATION OF REHABILITATION.—In determining whether, pursuant to paragraph (1), to deny admission or assistance to any elderly person based on a history of use of a controlled substance or alcohol, a public housing agency may consider whether such elderly person—

“(A) has successfully completed a supervised drug or alcohol rehabilitation program (as applicable) and is no longer engaging in the illegal use of a controlled substance or use of alcohol (as applicable);

“(B) has otherwise been rehabilitated successfully and is no longer engaging in the illegal use of a controlled substance or use of alcohol (as applicable); or

“(C) is participating in a supervised drug or alcohol rehabilitation program (as applicable) and is no longer engaging in the illegal use of a controlled substance or use of alcohol (as applicable).”.

SEC. 3. DESIGNATED HOUSING FOR ELDERLY AND DISABLED FAMILIES.

(a) IN GENERAL.—Section 7 of the United States Housing Act of 1937 (42 U.S.C. 1437e) is amended to read as follows:

“DESIGNATED HOUSING FOR ELDERLY AND DISABLED FAMILIES

“SEC. 7. (a) AUTHORITY TO PROVIDE DESIGNATED HOUSING.—

“(1) IN GENERAL.—Subject only to provisions of this section and notwithstanding any other provision of law, a public housing agency for which a plan under subsection (d) is in effect may provide public housing projects (or portions of projects) designated for occupancy by (A) only elderly families, (B) only disabled families, or (C) elderly and disabled families.

“(2) PRIORITY FOR OCCUPANCY.—In determining priority for admission to public housing projects (or portions of projects) that are designated for occupancy as provided in paragraph (1), the public housing agency may make units in such projects (or portions) available only to the types of families for whom the project is designated.

“(3) ELIGIBILITY OF NEAR-ELDERLY FAMILIES.—If a public housing agency determines that there are insufficient numbers of elderly families to fill all the units in a project (or portion of a project) designated under paragraph (1) for occupancy by only elderly families, the agency may provide that near-elderly families may occupy dwelling units in the project (or portion).

“(4) LIMITATION ON OCCUPANCY IN PROJECTS FOR ELDERLY FAMILIES.—

“(A) IN GENERAL.—Subject only to the provisions of subsection (b) and notwithstanding any other provision of law, a dwelling unit in a project (or portion of a project) that is designated under paragraph (1) for occupancy by only elderly families or by only elderly and disabled families shall not be occupied by any individual who is not an elderly person and—

“(i) who currently illegally uses a controlled substance; or

“(ii) whose history of illegal use of a controlled substance or use of alcohol, or current use of alcohol, provides reasonable cause for the agency to believe that the occupancy by such individual may interfere with the health, safety, or right to peaceful enjoyment of the premises by other tenants.

“(B) CONSIDERATION OF REHABILITATION.—In determining whether, pursuant to subparagraph (A), to deny occupancy to any individual based on a history of use of a controlled substance or alcohol, a public housing agency may consider the factors under section 16(e)(2).

“(b) STANDARDS REGARDING EVICTIONS.—

“(1) LIMITATION.—Except as provided in paragraph (2), any tenant who is lawfully residing in a dwelling unit in a public housing project may not be evicted or otherwise required to vacate such unit because of the designation of the project (or portion of a project) pursuant to this section or because of any action taken by the Secretary or any public housing agency pursuant to this section.

“(2) REQUIREMENT TO EVICT NONELDERLY TENANTS IN HOUSING DESIGNATED FOR ELDERLY FAMILIES WHO HAVE CURRENT DRUG OR ALCOHOL ABUSE PROBLEMS.—The public housing agency administering a project (or portion of a project) described in subsection (a)(4)(A) shall evict any individual who occupies a dwelling unit in such a project and who currently illegally uses a controlled substance or whose current use of alcohol provides a reasonable cause for the agency to believe that the occupancy by such individual may interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents. This paragraph may not be construed to require a public housing agency to evict any other individual who occupies the same dwelling unit as the individual required to be evicted.

“(c) RELOCATION ASSISTANCE.—A public housing agency that designates any existing project or building, or portion thereof, for occupancy as provided under subsection (a) shall provide, to each person and family relocated in connection with such designation—

“(1) notice of the designation and relocation, as soon as is practicable for the agency and the person or family;

“(2) comparable housing (including appropriate services and design features), which may include tenant-based rental assistance under section 8, at a rental rate that is comparable to that applicable to the unit from which the person or family has vacated; and

“(3) payment of actual, reasonable moving expenses.

“(d) REQUIRED PLAN.—A plan under this subsection for designating a project (or portion of a project) for occupancy under subsection (a)(1) is a plan, prepared by the public housing agency for the project and submitted to the Secretary, that—

“(1) establishes that the designation of the project is necessary—

“(A) to achieve the housing goals for the jurisdiction under the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act; and

“(B) to meet the housing needs of the low-income population of the jurisdiction; and

“(2) includes a description of—

“(A) the project (or portion of a project) to be designated;

“(B) the types of tenants for which the project is to be designated;

“(C) any supportive services to be provided to tenants of the designated project (or portion);

“(D) how the agency will secure any additional resources or housing assistance that is necessary to provide assistance to nonelderly disabled families that would have been housed if occupancy in project were not restricted pursuant to this section; and

“(E) how the design and related facilities (as such term is defined in section 202(d)(8) of the Housing Act of 1959) of the project accommodate the special environmental needs of the intended occupants.

For purposes of this subsection, the term ‘supportive services’ means services designed to meet the special needs of residents.

“(e) REVIEW OF PLANS.—

“(1) REVIEW AND NOTIFICATION.—The Secretary shall conduct a limited review of each plan under subsection (d) that is submitted to the Secretary to ensure that the plan is complete and complies with the requirements of subsection (d). The Secretary shall notify each public housing agency submitting a plan whether the plan complies with such requirements not later than 60 days after receiving the plan. If the Secretary does not notify the public housing agency, as required under this paragraph or paragraph (2), the plan shall be considered, for purposes of this section, to comply with the requirements under subsection (d) and the Secretary shall be considered to have notified the agency of such compliance upon the expiration of such 60-day period.

“(2) NOTICE OF REASONS FOR DETERMINATION OF NONCOMPLIANCE.—If the Secretary determines that a plan, as submitted, does not comply with the requirements under subsection (d), the Secretary shall specify in the notice under paragraph (1) the reasons for the noncompliance and any modifications necessary for the plan to meet such requirements.

“(3) STANDARDS FOR DETERMINATION OF NONCOMPLIANCE.—The Secretary may determine that a plan does not comply with the requirements under subsection (d) only if—

“(A) the plan is incomplete in significant matters required under such subsection; or

“(B) there is evidence available to the Secretary that challenges, in a substantial manner, any information provided in the plan.

“(4) TREATMENT OF EXISTING PLANS.—Notwithstanding any other provision of this section, a public housing agency shall be considered to have submitted a plan under this subsection if the agency has submitted to the Secretary an application and allocation plan under this section (as in effect before the date of the enactment of the Senior Citizens Housing Safety and Economic Relief Act of 1995) that have not been approved or disapproved before such date of enactment.

“(f) EFFECTIVENESS.—

“(1) 5-YEAR EFFECTIVENESS OF PLAN.—A plan under subsection (d) shall be in effect for purposes of this section only during the 5-year period that begins upon notification under subsection (e)(1) of the public housing agency that the plan complies with the requirements under subsection (d). An agency may extend the effectiveness of the designation and plan for an additional 2-year period beginning upon the expiration of such period (or the expiration of any previous extension period under this sentence) by submitting to the Secretary any information needed to update such plan.

“(2) SAVINGS PROVISION.—Any application and allocation plan approved under this section (as in effect before the date of the enactment of the Senior Citizens Housing Safety and Economic Relief Act of 1995) before such date of enactment shall be considered to be a plan under subsection (d) that is in effect for purposes of this section for the 5-year period beginning upon such approval.

“(g) INAPPLICABILITY OF UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITIONS POLICY ACT OF 1970.—No tenant of a public housing project shall be considered to be displaced for purposes of the Uniform Relocation Assistance and Real Property Acquisitions Policy Act of 1970 because of the designation of any existing project or building, or portion thereof, for occupancy as provided under subsection (a) of this section.

“(h) INAPPLICABILITY TO INDIAN HOUSING.—The provisions of this section shall not apply with respect to low-income housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority.”.

(b) LEASE PROVISIONS.—Section 6(l) of the United States Housing Act of 1937 (42 U.S.C. 1437d(l)) is amended—

(1) by redesignating paragraph (6) as paragraph (7); and

(2) by inserting after paragraph (5) the following new paragraph:

“(6) provide that any occupancy in violation of the provisions of section 7(a)(4) shall be cause for termination of tenancy; and”.

SEC. 4. STANDARDS FOR ASSISTED HOUSING LEASE TERMINATION AND EXPEDITED GRIEVANCE PROCEDURE.

(a) PUBLIC HOUSING AGENCY GRIEVANCE PROCEDURE.—Section 6(k) of the United States Housing Act of 1937 (42 U.S.C. 1437d(k)) is amended, in the first sentence of the matter following paragraph (6), by striking “criminal” the first place it appears and all that follows through “such premises” and inserting “activity described in subsection (l)(5) of this section or section 8(d)(1)(B)(iii)”.

(b) PUBLIC HOUSING LEASES.—Section 6(l) of the United States Housing Act of 1937 (42 U.S.C. 1437d(l)) is amended by striking paragraphs (4) and (5) and inserting the following new paragraphs:

“(4) require that the public housing agency may not terminate the tenancy except for violation of the terms or conditions of the lease, violation of applicable Federal, State, or local law, or for other good cause;

“(5) provide that the public housing agency may terminate the tenancy of a public housing resident for any activity, engaged in by the resident, any member of the resident’s household, or any guest or other person under the resident’s control, that—

“(A) threatens the health or safety of, or right to peaceful enjoyment of the premises by, other residents or employees of the public housing agency or other manager of the housing;

“(B) threatens the health or safety of, or right to peaceful enjoyment of their premises by, persons residing in the immediate vicinity of the premises; or

“(C) is criminal activity (including drug-related criminal activity);”.

(c) SECTION 8 HOUSING LEASES.—Section 8(d)(1)(B) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(1)(B)) is amended by striking clauses (ii) and (iii) and inserting the following new clauses:

“(ii) the owner shall not terminate the tenancy except for violation of the terms and conditions of the lease, violation of applicable Federal, State, or local law, or other good cause;

“(iii) the owner may terminate the tenancy of the tenant of a unit for any activity, engaged in by the tenant, any member of the tenant’s household, or any guest or other person under the tenant’s control, that—

“(I) threatens the health or safety of, or right to peaceful enjoyment of the premises by, other tenants or employees of the owner or manager of the housing;

“(II) threatens the health or safety of, or right to peaceful enjoyment of their residences by, persons residing in the immediate vicinity of the premises; or

“(III) is criminal activity (including drug-related criminal activity); and”.

SEC. 5. EXTENSION OF FHA MORTGAGE INSURANCE PROGRAM FOR HOME EQUITY CONVERSION MORTGAGES.

(a) **EXTENSION OF PROGRAM.**—The first sentence of section 255(g) of the National Housing Act (12 U.S.C. 1715z–20(g)) is amended by striking “September 30, 1995” and inserting “September 30, 2000”.

(b) **LIMITATION ON NUMBER OF MORTGAGES.**—The second sentence of section 255(g) of the National Housing Act (12 U.S.C. 1715z–20(g)) is amended by striking “25,000” and inserting “50,000”.

(c) **ELIGIBLE MORTGAGES.**—Section 255(d)(3) of the National Housing Act (12 U.S.C. 1715z–20(d)(3)) is amended to read as follows:

“(3) be secured by a dwelling that is designed principally for a 1- to 4-family residence in which the mortgagor occupies 1 of the units;”.

BACKGROUND AND NEED FOR LEGISLATION

PROVISIONS CONCERNING DRUG OR ALCOHOL ABUSERS IN PUBLIC HOUSING AND SECTION 8 ASSISTED HOUSING

Currently, public housing and other assisted housing programs are designed to provide housing for elderly families separate from family housing. The elderly housing developments are open to eligible individuals over 62 years of age, or single people of any age who have mental or physical disabilities according to the American With Disabilities Act.

The mixing of populations has led to a number of problems that our senior citizens should not tolerate. Many elderly residents who anticipated a quiet, all-elderly environment are frightened and disturbed, experience clashes in lifestyles, and tend to find an increase in complaints proportionate to the increase in the building’s young and disabled population. Moreover, young disabled people in these elderly developments are dissatisfied as well. Some complain that their elderly neighbors treat them with suspicion and resentment.

In 1992, Congress responded to reports that including non-elderly handicapped and disabled persons in housing occupied by elderly persons was creating difficulties and personal safety problems and disrupting management. This response resulted in a considerable effort to re-write the laws regarding mixed populations in Title VI of the Housing and Community Development Act of 1992 (Pub. H. 102–550).

Under Title VI, public housing authorities and federally assisted apartment owners could designate certain buildings as “elderly only” so long as they implemented a plan to provide alternative housing for those non-elderly residents who were eligible for federally assisted housing and who otherwise may have been eligible for a unit in an elderly building. The Committee, however, was very clear that current non-elderly residents could not be evicted without cause and that Public Housing Authorities [PHA] or landlords could not leave units vacant for excessive periods of time while seeking eligible elderly tenants. After a pre-determined time pe-

riod, the PHA or landlord was expected to fill a vacant unit with either an elderly resident or the next eligible resident on the waiting list, elderly or not.

According to the HUD Inspector General, HUD's rules implementing Title VI have proven overly burdensome and complicated for PHAs attempting to receive "elderly only" designations. In fact, out of 3,400 PHAs, only 10 such plans have been approved by HUD.

While the provisions of the 1992 Act represented a step in the right direction, the Committee has been made aware that serious problems persist. This problem is especially true in buildings where the current level of non-elderly residents remains high or where non-elderly tenants continue to be admitted. Elderly residents continue to expect quiet, trouble-free, all-elderly environments but are continually frightened and concerned over the presence of a small and growing minority of unruly non-elderly residents.

In an effort to address a recognized flaw in Title VI that non-elderly tenants be admitted to an elderly building when no eligible elderly person is available, Representative Grams, in the 103d Congress, offered an amendment during the subcommittee markup of H.R. 3838, the Housing and Community Development Act of 1994, to prohibit occupancy by substance abusers and alcoholics in mixed population housing. After considerable debate and subsequent discussion, a modified Grams amendment was accepted at full committee. This amendment provided expedited eviction proceedings if a resident's behavior "constitutes a threat to the health, safety, or right to peaceful enjoyment of the premises." This provision would be particularly important in those situations where young, disabled persons engage in inappropriate conduct, including drug-related activities.

During floor consideration of the Housing and Community Development Act of 1994, Representative Blute offered an amendment, which passed by voice vote, that requires a screening process to prevent non-elderly former substance abusers from being accepted into senior facilities. The amendment would have forced the eviction of non-elderly residents in these facilities who commit crimes or cause disturbances that affect the health, safety, or well being of other residents after three documented infractions. The amendment did not take effect because the Senate failed to pass a Housing bill before the close of the 103d Congress.

As originally introduced on January 4, 1995, H.R. 117, the Senior Citizens Housing Safety Act of 1995, prohibits the placement of current or former drug and alcohol abusers in public housing that is designated for elderly or elderly and disabled families, notwithstanding any other provisions of law.

PROVISIONS CONCERNING HOME EQUITY CONVERSION MORTGAGES

The Home Equity Conversion Mortgage [HECM] Insurance Demonstration was authorized by Section 417 of the Housing and Community Development Act of 1987, which amended Section 255 of the National Housing Act to permit elderly homeowners to borrow against the equity in their home. These loans are originated by FHA-approved lenders and subsequently purchased by the secondary market.

A reverse mortgage is a loan against the value of a home, for which the borrower is not required to make payments until the home is sold. There are four ways that a Senior can access cash through the reverse mortgage—lump sum, line of credit to be tapped by personal checks, a monthly payment in the form of a lifetime guaranteed monthly payment, or a combination of monthly payments and line of credit options.

Borrowers must be at least 62 years old to qualify. The median age of HECM borrowers has been 76 years old, with most borrowers between 71 and 81 years old, and 5 percent of borrowers over 90 years old. These HECM borrowers usually have below average income at approximately \$10,368, with Social Security income approximately at \$8,126.

The borrower retains ownership of the property and may sell the home and move at any time, keeping the sales proceeds in excess of the mortgage balance. An FHA-insured reverse mortgage need not be repaid until the borrower moves, sells, or dies. When the loan is due and payable, if the loan balance exceeds the value of the property, the borrower (or the heirs) will owe no more than the value of the property.

In a March 15, 1995 report to Congress entitled "Evaluation of the Home Equity Conversion Mortgage Insurance Demonstration", HUD noted that approximately 300 to 400 HECM loans are closed each month, totalling approximately 13,000 HECM loans closed. There have been 550 loans terminated, of which 37 percent can be specifically identified as being due to death of the borrower, 34 percent due to the borrower moving out of the mortgage property, and 8 percent due to a pay off in which the borrower remained in the property. The reasons for the termination of the remaining 21 percent are not known, although HUD suspects that some of these are due to unreported deaths.

FHA's authority to insure reverse mortgages under the HECM demonstration program lapsed on Oct. 1 of this year. H.R. 1934, Housing Subcommittee Chairman Lazio's Home Equity Conversion Mortgage Program Extension Act of 1995, extends the HECM program for another 5 years through September 30, 2000. It also allows FHA to insure reverse mortgages on 1- to 4-family homes, in which a HECM-eligible owner resides.

Acceptance for this program is growing rapidly, but FHA insurance authority is necessary until the program is fully accepted by the private sector.

The House passed VA/HUD Appropriations bill for fiscal 1996 proposes to extend the HECM program for one year. By including this legislation as part of the Senior Citizens Housing Safety and Economic Relief Act of 1995, the Committee believes it can avoid any lapses in this very useful and effective program now or at the end of fiscal year 1996.

PURPOSE AND SUMMARY OF LEGISLATION

AUTHORITY TO LIMIT ADMISSION OF DRUG AND ALCOHOL ABUSERS

Currently, the admissions screening and termination policies in public and assisted housing are inadequate and, sometimes, are not enforced. The purpose of H.R. 117, the Senior Citizens Housing and

Economic Relief Act of 1995, is to strengthen these policies and protect the residents of public and assisted housing, particularly senior citizens and children, from the problems associated with drug addicts and alcoholics.

To accomplish this purpose, Public Housing Authorities [PHAs] may decide against providing housing assistance to individuals who are currently using drugs.¹ Additionally, individuals with a history of abuse of drugs or alcohol, or who currently use alcohol, may not receive assistance if the PHA has reasonable cause to believe they would interfere with the health, safety or right to peaceful enjoyment of the premises by other residents. Clearly, the requirement of “reasonable cause” allows PHAs to consider whether applicants have successfully completed or continue to participate in a supervised rehabilitation program.

To ensure that elderly applicants, who are recovering addicts, are eligible for assistance, the legislation explicitly provides that PHAs may consider whether the applicant has successfully completed or continues to participate in a supervised drug or alcohol treatment program. Moreover, the PHA cannot preclude an elderly person from receiving assistance if there is no reason to believe that an individual not currently using drugs or alcohol will endanger residents or employees of public or assisted housing, or will not display behavior that interferes with the peaceful enjoyment of the premises by other residents.

To prevent arbitrary actions by a PHA to preclude an eligible resident from receiving assistance, safeguards are established in the legislation. PHAs must establish uniform occupancy standards, rules and regulations about their admissions policies for every resident, including persons with histories of drug or alcohol abuse. The standards adopted will form the basis for determining how and when individuals can be excluded from occupancy based on their past history of abuse. For example, PHAs could request information about the applicant’s recovery and behavior from sources such as social workers, rehabilitation specialists, former landlords, and probation officers. PHAs could also consider whether the individual has been a recovering addict for a substantial period of time.

The Committee cannot emphasize strongly enough, however, that PHAs must have the ultimate decision-making authority related to administering their admissions and occupancy standards. After all, it is the PHA that is in the position of confirming that an applicant is statutorily eligible to receive the assistance and can comply with the provisions of the lease agreement.

PHAs must proactively create fair, but stringent admissions and occupancy standards to maintain a quality living environment for every resident. Additionally, performance and behavior admission requirements must be clearly defined in the lease. Applicant screening methods should be targeted toward determining the like-

¹ The Fair Housing Amendments Act, Section 504 of the Rehabilitation Act and the Americans With Disabilities Act explicitly exclude from the definition of a person with a disability any individual who is currently engaged in the illegal use of a controlled substance. Nothing in this legislation should be construed to imply that current users of illegal drugs are eligible as persons with disabilities for purposes of housing programs. Additionally, the legislation should not be construed to imply that residents or applicants for assistance who are classified as mentally disabled because of a previous abuse of drugs or alcohol are no longer considered disabled for purposes of housing programs.

likelihood that any applicant will be able to meet the essential requirements of tenancy as expressed in the lease, which include:

- (1) paying the rent;
- (2) using facilities and equipment reasonably and safely;
- (3) not interfering with the rights and enjoyment of others, and not damaging the property of others;
- (4) complying with the rules and regulations of the PHA and with health and safety codes;
- (5) not engaging in activities that threaten the health, safety, or right to peaceful enjoyment of other residents; and,
- (6) not engaging in criminal activities on or near the premises.

DESIGNATED HOUSING

Title VI of the Housing and Community Development Act of 1992 establishes the process PHAs must follow to designate housing as senior-only, disabled-only, or senior and disabled-only. These provisions are burdensome and overly-restrictive as well as micromanaged by Federal bureaucrats. To end this situation, the Committee adopted an amendment enhancing the authority of PHAs to use their discretion to designate housing for certain populations. The legislation deregulates housing authorities and streamlines the process by which authorities may designate housing for specific populations.

There is widespread agreement by senior citizens, the housing industry, and Congress that, in buildings designated for elderly families, PHAs must be allowed to limit occupancy only to senior citizens. Since 1988, when the Fair Housing Act Amendments expanded the definition of "disabled" to include former abusers of drugs and alcohol, young substance abusers have been mixed-in with frail seniors in public and assisted housing. According to the American Association of Retired Persons [AARP], mixing young persons (even though classified as mentally disabled) in apartment complexes with single women who are, on average, 76 years old, has dramatically changed a strong, supportive atmosphere into one filled with disruption and fear.

Moreover, Ms. Susan Gaffney, the HUD Inspector General [IG], in an October 12, 1995, letter to the Committee, stated that the existing system invites abuse by criminals who wish to conduct their drug activities in the relatively secure environment of senior-only apartment buildings. According to the IG, "[c]riminals who are bent on 'beating the system' can easily defer illegal drug use for a brief period and enter a rehabilitation program." Once in a rehabilitation program, these persons claim "disabled" status as recovering drug abusers and are eligible to be admitted to elderly public housing or section 8 housing.

The IG's concern is not unsubstantiated. For example, the IG related that Gerald McHale, Deputy Superintendent of the Boston Police Department, has made her aware of situations where drug users qualify as "disabled" after entering a drug rehabilitation program for as little as 30 days. After gaining admission to senior housing, the "disabled" drug users and their associates begin functioning from formerly quiet elderly residential areas that now serve as secure locations for drug trafficking. These observations are con-

sistent with comments from representatives of the International Association of Chiefs of Police.

The Committee Print allows housing authorities to limit occupancy in designated housing to the type of resident for which the building is designated. Clearly, senior citizens disabled by a former addiction are not automatically excluded from admission unless the PHA can show that they would interfere with the peaceful enjoyment of the premises by other senior citizens. To ensure this policy, the legislation explicitly provides PHAs with the option of considering a former abuser's rehabilitation record when deciding whether to preclude them from living in public or assisted housing. Additionally, housing authorities may provide relocation assistance to families who are not abusing drugs or alcohol or displaying inappropriate behavior but who no longer are eligible to remain in a designated building by providing them with comparable public housing or by providing a Section 8 certificate or voucher.

Many PHAs are reluctant to evict residents classified "disabled" even when those residents have returned to a life of addiction. The Committee reiterates that no law protects current users of illegal controlled substances. Evictions of these persons should be pursued aggressively and quickly.

The legislation also limits HUD's authority to disapprove a PHA's five-year designation plan. Plans may not be disapproved by HUD unless they are incomplete in a substantial manner, or HUD can prove the information required to be in the plan is inaccurate. By this action, the Committee acknowledges that local decisions are preferable to federal micromanagement.

STANDARDS FOR ASSISTED HOUSING LEASE TERMINATION AND EXPEDITED GRIEVANCE PROCEDURE

The Committee Print provides PHAs with the authority to amend and change existing and future leases to allow tenancy to be terminated if leaseholders, their family members, or their guests, act inappropriately or engage in any kind of criminal behavior. "Actual knowledge" by the leaseholder is not a precondition to lease termination if a family member or a guest engages in inappropriate behavior or criminal activity.

While the Committee acknowledges that this authority is broad, it is not the Committee's intention that the authority be used arbitrarily or capriciously by a PHA. Nevertheless, the Committee expects every PHA to act aggressively to terminate the tenancy of residents who endanger other residents by their action or the actions of people who are their guests even if they do not commit the act themselves or have direct knowledge of the act.

The Committee believes it is time to stop protecting individuals that violate their lease at the expense of their neighbors and the community environment; the priority for the PHA must be to provide for the peaceful enjoyment of the premises by the families who live there, especially senior residents. Only by taking these measures will Congress help to ensure that public and assisted housing does not continue to be perceived as "housing of the last resort."

HOME EQUITY CONVERSION MORTGAGE EXTENSION

The Home Equity Conversion Mortgage Extension lapsed on October 1, 1995. The VA/HUD Appropriations bill for fiscal year 1996 proposes to extend the program for one year. The Committee recognizes that the reverse mortgage program's origination activity has significantly increased as many eligible seniors learn about the program. According to a HUD March 15, 1995 report to Congress, the Department noted that approximately 300 to 400 HECM loans are closed each month; there are approximately 13,000 closed HECM loans. Until the program is reauthorized, HUD will no longer be able to offer FHA insurance for many eligible seniors who need the equity to supplement their limited incomes.

Additionally, the current law is inconsistent regarding eligible single family properties for FHA mortgage insurance. Section 203(b) of the National Housing Act provides authority for FHA to insure mortgages where there is an amortized schedule requiring payment over the life of the loan. Unlike the 203(b) program, which covers the most significant number of mortgages, the HECM program covers reverse mortgages where the loan will not be paid until the homeowner dies, sells or moves away from the mortgaged property. The 203(b) program recognizes as single family homes, properties with one to four units; the HECM program recognizes only one unit dwellings. Thus, the HECM program precludes an entire class of senior homeowners who may want access to the equity in an owner-occupied home with a maximum of four units.

This legislation will extend the HECM program through September 30, 2000 and extends eligibility to 1- to 4-family homes, provided that it is the primary residence of the borrower.

HEARING

The Committee on Banking and Financial Services held a hearing on "The Senior Citizens Housing Safety and Economic Relief Act of 1995" on October 12, 1995.

Testifying before the Committee were: The Honorable Peter Blute; The Honorable Michael Patrick Flanagan; The Honorable James P. Moran; The Honorable Ray LaHood; Mr. John Mather, Chairman, Legislative Council, Massachusetts Chapter of the National Association of Housing and Redevelopment Officials; Ms. Anneliessa Belculfino, a senior citizen residing in public housing, Worcester, Massachusetts; and, Ms. Marion Johnson, an employee of the Elder Home Care, Worcester, Massachusetts. In addition, the Committee received letters of support for the Committee Print from the National Assisted Housing Management Association, the National Association of Home Builders, the American Association of Retired Persons, and American Association of Homes and Services for the Aging.

COMMITTEE CONSIDERATION AND VOTES

(RULE XI, CLAUSE 2(1)(2)(B))

On October 12, 1995, the Committee met in open session to mark up the Committee Print entitled the "Senior Citizens Housing Safety and Economic Relief Act of 1995." The Committee considered, as

original text for purposes of amendments, the Committee Print which incorporated the principles of H.R. 117, originally introduced by Mr. Blute, and H.R. 1934, originally introduced by Mr. Lazio.

During the markup, the Committee approved 3 amendments by voice vote. The Committee also defeated 1 amendment by voice vote. Two amendments were withdrawn and a third amendment was withdrawn on the promise to work towards incorporating acceptable language in a floor amendment. Immediately following the mark up, the Committee called up H.R. 117 and moved to strike everything after the enacting clause and inserted the Committee Print, as amended.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT FINDINGS

No findings and recommendations of the Committee on Government Reform and Oversight were received as referred to in clause 2(l)(3)(D) of rule XI and clause 4(c)(2) of rule X of the Rules of the House of Representatives.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 2(l)(3)(B) of rule XI of the Rules of the House of Representatives is inapplicable because this legislation does not provide new budgetary authority for increased tax expenditures.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

The cost estimate pursuant to Clause 2(l)(3)(C) of rule XI, of the Rules of the House of Representatives and Section 403 of the Congressional Budget Act of 1974 follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 18, 1995.

Hon. JAMES A. LEACH,
*Chairman, Committee on Banking and Financial Services,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 117, the Senior Citizens Housing Safety and Economic Relief Act of 1995, as ordered reported by the House Committee on Banking and Financial Services on October 12, 1995.

The estimate shows the budgetary effects of the committee's proposals over the 1996–2000 period. This estimate assumes the bill will be enacted by November 15, 1995.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JUNE E. O'NEILL, *Director*.

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: H.R. 117.
2. Bill title: Senior Citizens Housing Safety and Economic Relief Act of 1995.
3. Bill status: As ordered reported by the House Committee on Banking and Financial Services on October 12, 1995.
4. Bill purpose: The bill would amend certain provisions in the United States Housing Act of 1937 that cover federal housing assistance provided to elderly and handicapped families. This bill also would extend the Federal Housing Administration's [FHA's] authority to insure reverse mortgages under the Home Equity Conversion Mortgage insurance program for another five years.
5. Estimated cost to the Federal Government:

[By fiscal year, in millions of dollars]

	1996	1997	1998	1999	2000
Authorizations of Appropriations:					
Extension of HECM Program:					
Estimated budget authority	-7	-8	-8	-8	-8
Estimated outlays	-7	-8	-8	-8	-8

The costs of this bill would fall within budget function 370.

6. Basis of estimate: Sections 2, 3, and 4 of the bill would amend certain provisions of current law that authorize public housing and rental assistance for low-income families with elderly or disabled members. These amendments would give public housing agencies additional authority to develop and enforce standards for housing assistance, particularly in the areas of controlled substance use and alcohol abuse. The bill clarifies the conditions under which non-elderly persons with substance abuse problems can be evicted from housing projects intended to be for elderly or disabled persons exclusively. Agencies would also be provided further authority to keep projects or parts of projects for the use of elderly tenants. Implementation of these changes would have no significant impact on the federal budget.

Section 5 of this bill would extend the Home Equity Conversion Mortgage program to September 30, 2000. Authority for this program lapsed on October 1, 1995. The bill also would enable FHA to insure up to 50,000 reverse mortgages over the 1996-2000 period, thus adding about \$3.5 billion in insured mortgages to the FHA portfolio over this period. This insured loan limit would allow FHA to expand the program by about 35,000 mortgages from the current level of 15,000. Because this type of mortgage is estimated to have negative credit subsidies, any increase in volume would result in an outlay reduction to the appropriations from FHA's General and Special Risk Insurance program account. Over the 1996-2000 period, CBO estimates that this provision would result in an outlay reduction of about \$39 million.

7. Pay-as-you-go considerations: None.
8. Estimated cost to State and local governments: None.
9. Estimate comparison: None.
10. Previous CBO estimate: None.
11. Estimate prepared by: Suzanne Mehlman and Brent Shipp.
12. Estimate approved by: Paul N. Van de Water, Assistant Director for Budget Analysis.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

CONGRESSIONAL ACCOUNTABILITY ACT

The reporting requirement under section 102(b)(3) of the Congressional Accountability Act (P.L. 104-1) is inapplicable because this legislation does not relate to terms and conditions of employment or access to public services or accommodations.

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the Committee estimates that H.R. 117 will have no significant inflationary impact on prices and costs in the national economy.

SECTION-BY-SECTION ANALYSIS

Section 1.—Short Title.—Establishes the title of the legislation: The “Senior Citizens Housing Safety and Economic Relief Act of 1995.”

Section 2.—Authority For Public Housing Agencies to Prohibit Admission of Drug or Alcohol Abusers to Assisted Housing.—Amends Section 16 of the United States Housing Act of 1937, governing resident eligibility requirements. The legislation authorizes PHAs to establish occupancy standards that prohibit admission to federally assisted apartment buildings by applicants who currently use illegal drug. Additionally, the provision gives PHAs the authority to establish occupancy standards to preclude individuals whose history of illegal use of drugs, or whose use of alcohol creates a reasonable belief that the applicant may interfere with the health, safety or peaceful enjoyment of the facilities by families who reside in the apartment or apartment complex.

In determining whether to deny housing assistance to an elderly person with a history of drug addiction or alcoholism, the PHA may consider whether the person successfully completed a rehabilitation program or is currently participating in a rehabilitation program.

Section 3.—Designated Housing for Elderly and Disabled Families.—Amends Section 7 of the United States Housing Act of 1937 by providing PHAs with authority to designate housing for occupancy by only elderly families, only disabled families, or elderly and disabled families and may establish priority for such housing based upon the type of family. Likewise, PHAs may choose to provide housing for near-elderly families if vacant apartments cannot be filled because there are insufficient numbers of elderly families.

If a building is designated as senior-only, disabled-only, or senior and disabled housing, PHAs are required to prohibit admission or occupancy of the building by individuals (i) who currently use illegal controlled substances, or (ii) whose history of illegal use of controlled substances or alcohol or current use of alcohol provides reasonable cause for the agency to believe that they will interfere with the peaceful enjoyment of or safety of the residents who live in the facility. To implement this prohibition, the PHA may adopt lease provisions that specifically state that persons abusing drugs or alcohol are violating the lease.

PHAs must establish occupancy standards for their inventory of non-designated public and assisted housing, particularly regarding admitting non-elderly and disabled persons who a history of abuse of illegal drugs or alcohol. In establishing these standards, if a person with a history of drug or alcohol abuse is elderly, PHAs may consider whether the individual successfully completed a rehabilitation program or is currently participating in a rehabilitation program.

Non-elderly residents already living in designated buildings may not be evicted unless their behavior is inappropriate. However, if the non-elderly person is using illegal substances, or if their history of use of illegal drugs or alcohol provides a reasonable cause for the agency to believe their occupancy interferes with the health and safety of the other residents, the PHA may evict them.

If a family is dislocated because a building is designated for a specific population, the PHA may provide other comparable public housing or tenant-based assistance. Additionally, reasonable moving expenses must be paid by the PHA. The Uniform Relocation Assistance and Real Property Acquisitions Policy Act of 1970 is not applicable to this provision.

Before a building can be designated, PHAs must submit to HUD a plan establishing that the designation is necessary to achieve housing needs and goals of the low-income population in the jurisdiction. The plan must describe: (1) the designated project or building; (2) the classification of residents for the designated project or building; (3) any supportive services provided; (4) agency resources necessary to provide services to the non-elderly disabled families that might have been housed in the project or building; and (5) the design and related facilities accommodating the special environmental needs of the intended occupants. The plan is operative for five years and may be extended for an additional two years by submitting information necessary for update.

HUD must approve or disapprove the plan with 60 days or the plan is deemed approved. The plan may be disapproved only in those instances where (1) the plan is incomplete in significant matters or (2) evidence available to the Secretary challenges the information provided in the plan. Plans submitted under Section 7, prior to enactment of the Senior Citizens Housing Safety and Economic Relief Act of 1995, are considered as having been submitted under this subsection.

Section 4.—Standards for Assisted Housing Lease Termination and Expedited Grievance Procedure.—Amends Section 6 of the United States Housing Act of 1937 by allowing PHA's authority to change lease terms (including current agreements) and expedite

grievance procedures: (1) for good cause; (2) if the behavior of a resident, member of resident's household, or guest threatens the health or safety or right to peaceful enjoyment of the premises by other residents, employees, or neighbors; or (3) if the resident or guest engages in any type of criminal activity.

Section 5.—Extension of FHA Mortgage Insurance Program for Home Equity Conversion Mortgages.—Section 5 amends Section 255(g) of the National Housing Act by extending the authorization period for the Home Equity Conversion Mortgage Demonstration Program through September 30, 2000. This provision increases the number of mortgages insured under this demonstration program to 50,000 and extends eligibility to 1- to 4-family unit residences where at least one unit is owner-occupied.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

UNITED STATES HOUSING ACT OF 1937

* * * * *

CONTRACT PROVISIONS AND REQUIREMENTS

SEC. 6. (a) * * *

* * * * *

(k) The Secretary shall by regulation require each public housing agency receiving assistance under this Act to establish and implement an administrative grievance procedure under which tenants will—

(1) * * *

* * * * *

(6) be entitled to receive a written decision by the public housing agency on the proposed action.

For any grievance concerning an eviction or termination of tenancy that involves any [criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other tenants or employees of the public housing agency or any drug-related criminal activity on or near such premises] *activity described in subsection (1)(5) of this section or section 8(d)(1)(B)(iii)*, the agency may (A) establish an expedited grievance procedure as the Secretary shall provide by rule under section 553 of title 5, United States Code, or (B) exclude from its grievance procedure any such grievance, in any jurisdiction which requires that prior to eviction, a tenant be given a hearing in court which the Secretary determines provides the basic elements of due process (which the Secretary shall establish by rule under section 553 of title 5, United States Code). Such elements of due process shall not include a requirement that the tenant be provided an opportunity to examine relevant documents within the possession of the public housing agency. The agency shall provide to the tenant a reasonable oppor-

tunity, prior to hearing or trial, to examine any relevant documents, records, or regulations directly related to the eviction or termination.

(l) Each public housing agency shall utilize leases which—

(1) * * *

* * * * *

[(4) require that the public housing agency may not terminate the tenancy except for serious or repeated violation of the terms or conditions of the lease or for other good cause;

[(5) provide that any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other tenants or any drug-related criminal activity on or near such premises, engaged in by a public housing tenant, any member of the tenant's household, or any guest or other person under the tenant's control, shall be cause for termination of tenancy; and]

(4) require that the public housing agency may not terminate the tenancy except for violation of the terms or conditions of the lease, violation of applicable Federal, State, or local law, or for other good cause;

(5) provide that the public housing agency may terminate the tenancy of a public housing resident for any activity, engaged in by the resident, any member of the resident's household, or any guest or other person under the resident's control, that—

(A) threatens the health or safety of, or right to peaceful enjoyment of the premises by, other residents or employees of the public housing agency or other manager of the housing;

(B) threatens the health or safety of, or right to peaceful enjoyment of their premises by, persons residing in the immediate vicinity of the premises; or

(C) is criminal activity (including drug-related criminal activity);

(6) provide that any occupancy in violation of the provisions of section 7(a)(4) shall be cause for termination of tenancy; and

[(6)] (7) specify that with respect to any notice of eviction or termination, notwithstanding any State law, a public housing tenant shall be informed of the opportunity, prior to any hearing or trial, to examine any relevant documents, records or regulations directly related to the eviction or termination.

For purposes of paragraph (5), the term “drug-related criminal activity” means the illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute, or use, of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

* * * * *

[DESIGNATED HOUSING

[SEC. 7. (a) AUTHORITY TO PROVIDE DESIGNATED HOUSING.—

[(1) IN GENERAL.—Notwithstanding any other provision of law, a public housing agency whose allocation plan under subsection (f) (and any biannual update) has been approved by the Secretary may, to the extent provided in the allocation plan,

provide public housing projects (or portions of projects) designated for occupancy by (A) only elderly families, (B) only disabled families (subject to the provisions of subsection (e)), or (C) elderly and disabled families.

[(2) PRIORITY FOR OCCUPANCY.—In determining priority for admission to public housing projects (or portions of projects) that are designated for occupancy as provided in paragraph (1), the public housing agency may make units in such projects (or portions) available only to the types of families for whom the project is designated. Among such types of families, preference for occupancy in such projects (or portions) shall be given according to the preferences for occupancy under section 6(c)(4)(A).

[(3) ELIGIBILITY OF NEAR-ELDERLY FAMILIES.—If a public housing agency determines (in accordance with regulations established by the Secretary) that there are insufficient numbers of elderly families to fill all the units in a project (or portion of a project) designated under paragraph (1) for occupancy by only elderly families, the agency may (pursuant to the approved allocation plan under subsection (f) for the agency) provide that near-elderly families who qualify for preferences for occupancy under section 6(c)(4)(A) may occupy dwelling units in the project (or portion).

[(4) VACANCY.—Notwithstanding the authority under paragraphs (1) and (2) to designate public housing projects (or portions of projects) for occupancy by only certain types of families, a public housing agency shall make any dwelling unit that is ready for occupancy in such a project (or portion of a project) that has been vacant for more than 60 consecutive days generally available for occupancy (subject to the requirements of this title) without regard to such designation.

[(b) AVAILABILITY OF HOUSING.—

[(1) TENANT CHOICE.—The decision of any disabled family not to occupy or accept occupancy in an appropriate type of project or assistance made available to the family under this title shall not adversely affect the family with respect to a public housing agency making available occupancy in other appropriate projects in public housing or assistance under this title.

[(2) DISCRIMINATORY SELECTION.—Paragraph (1) shall not apply to any family who decides not to occupy or accept an appropriate dwelling unit in public housing or to accept assistance under this Act on the basis of the race, color, religion, sex, disability, familial status, or national origin of occupants of housing or the surrounding area.

[(3) APPROPRIATENESS OF DWELLING UNITS.—This section may not be construed to require a public housing agency to offer occupancy in any dwelling unit assisted under this Act to any family who is not of appropriate family size for the dwelling unit.

[(c) PROHIBITION OF EVICTIONS.—Any tenant who is lawfully residing in a dwelling unit in the project may not be evicted or otherwise required to vacate such unit because of the designation of the project (or portion of a project) or because of any action taken by

the Secretary of Housing and Urban Development or any public housing agency pursuant to this section.

[(d) ACCOMMODATION OF HOUSING AND SERVICE NEEDS.—In designing, developing, otherwise acquiring and operating, designating, and providing housing and assistance under this title, each public housing agency shall meet, to the extent practicable, the housing and service needs of eligible families applying for assistance under this title, as provided in any allocation plan of the agency approved under subsection (f). To meet such needs, public housing agencies may, wherever practicable and in accordance with any allocation plan of the agency—

[(1) provide housing in which supportive services are provided, facilitated, or coordinated, mixed housing, shared housing, family housing, group homes, congregate housing, and other housing as the public housing agency considers appropriate;

[(2) carry out major reconstruction of obsolete public housing projects and reconfiguration of public housing dwelling units; and

[(3) provide tenant-based assistance under section 811(b)(1).

[(e) APPLICATION FOR DESIGNATED HOUSING FOR DISABLED FAMILIES.—

[(1) REQUIREMENT.—A project (or portion of a project) may be designated under subsection (a)(1) for occupancy by only disabled families only if the public housing agency administering the project complies with the other requirements of this section and the Secretary approves an application under this subsection for such designation. The Secretary shall establish the form and procedures for submission and approval of applications under this subsection.

[(2) CONTENTS.—An application under this subsection shall contain—

[(i) a description of the projects (or portions of projects) to be designated (which may include group homes, independent living facilities, units in multifamily housing developments, condominium housing, cooperative housing, and scattered site housing);

[(ii) a supportive service plan—

[(I) describing the needs of persons with disabilities that the housing is expected to serve;

[(II) providing for delivery of supportive services appropriate to meet the individual needs of persons with disabilities occupying the housing;

[(III) describing the experience of the applicant (or service providers) in providing such services;

[(IV) describing the manner in which such services will be provided to such persons; and

[(V) identifying any State, local, other Federal, or other funds available for providing such services; and

[(iii) any other information or certification that the Secretary considers appropriate.

[(3) APPROVAL.—The Secretary may approve an application under this subsection only if the Secretary determines that—

[(i) the persons with disabilities occupying the housing will receive supportive services based on their individual needs;

[(ii) the applicant (or service providers) have sufficient experience in providing supportive services;

[(iii) residential supervision will be provided in the housing sufficient to facilitate the provision of supportive services; and

[(iv) the supportive services are adequately designed to meet the special needs of the tenants.

[(4) SUPPORTIVE SERVICES.—For purposes of this subsection, the term “supportive services” means services designed to meet the special needs of tenants, and may include meal services, health-related services, mental health services, services for nonmedical counseling, meals, transportation, personal care, bathing, toileting, housekeeping, chore assistance, safety, group and socialization activities, assistance with medications (in accordance with any applicable State laws), case management, personal emergency response, and other appropriate services.

[(f) ALLOCATION PLANS.—

[(1) REQUIREMENT.—A public housing agency may not designate a project (or portion of a project) for occupancy under subsection (a)(1) unless the agency submits an allocation plan under this subsection and the plan is approved under paragraph (4) of this subsection.

[(2) CONTENTS.—An allocation plan submitted under this subsection by a public housing agency shall include—

[(A) a description of the projects (or portions of projects) to be designated and the types of tenants occupying such projects (or portions);

[(B) a description of the estimated pool of applicants for such housing, based on the waiting lists for such housing, and any information collected in the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act for the jurisdiction within which the area served by the public housing agency is located;

[(C) a statement identifying the projects or portions of projects (including the buildings or floors) to be designated for occupancy under subsection (a)(1) for only certain types of families, the types of families who will be eligible for occupancy in such projects (or portions), and the reasons for the designation;

[(D) documentation of the number of units in the projects (or portions) identified under subparagraph (C) which became vacant and available for occupancy during the preceding year;

[(E) an estimate of the number of units in the projects (or portions) identified under subparagraph (C) that will become vacant and available for occupancy during the ensuing 2-year period;

[(F) a description of the occupancy policies and procedures, including procedures for maintaining waiting lists

for eligible applicants who are elderly families or disabled families for occupancy in units in projects administered by the agency sufficient to document the number and duration of instances in which housing assistance for eligible applicants will be denied or delayed by the agency because of a lack of appropriately designated units;

[(G) a plan for securing sufficient additional resources that the agency owns, controls, or has received preliminary notification that it will obtain, or for which the agency plans to apply, that will be sufficient to provide assistance to not less than the number of nonelderly disabled families that would have been housed if occupancy in such units were not restricted pursuant to this section; and

[(H) any comments of agencies, organizations, or persons with whom the public housing agency consults under paragraph (3).

[(3) DEVELOPMENT.—In preparing the initial allocation plan, or updates of a plan under paragraph (5), for submission under this subsection, a public housing agency shall consult with the State or unit of general local government in whose jurisdiction the area served by the public housing agency is located, public and private service providers, advocates for the interest of eligible elderly families, disabled families, and families with children, and other interested parties.

[(4) APPROVAL.—

[(A) CRITERIA.—The Secretary shall approve an allocation plan, or an updated plan, submitted under this subsection if the Secretary determines that, based on the plan and comments submitted pursuant to paragraph (2)(H)—

[(i) the information contained in the plan is complete and accurate and the projections are reasonable;

[(ii) implementation of the plan will not result in excessive vacancy rates in projects (or portions of projects) identified in paragraph (2)(C); and

[(iii) the plan under paragraph (2)(G) can reasonably be achieved.

[(B) NOTIFICATION.—

[(i) IN GENERAL.—The Secretary shall notify each public housing agency submitting an allocation plan under this subsection in writing of approval or disapproval of the plan.

[(ii) TIMING.—A plan shall be considered to be approved if the Secretary does not notify the public housing agency of approval or disapproval of the initial or revised plan within (I) 90 days after the submission of any plan that contains comments pursuant to paragraph (2)(H), or (II) 45 days for any other plan.

[(iii) RESUBMISSION.—If the Secretary disapproves the plan, the Secretary shall, for a period of not less than 45 days following the date of disapproval, permit amendments to, or resubmission of, the plan.

[(C) RULE OF CONSTRUCTION.—The approval of an allocation plan or updated plan under this subsection may not be construed to constitute approval of any request for as-

sistance for major reconstruction of obsolete projects, assistance for development or acquisition of public housing, or assistance under section 811(b)(1) of the Cranston-Gonzalez National Affordable Housing Act, that are contained in the plan pursuant to subparagraph (H).

[(5) BIENNIAL UPDATE.—

[(A) IN GENERAL.—Each public housing agency that owns or operates a project (or portion of a project) that is designated for occupancy under subsection (a)(1) shall update the plan of the agency under this subsection not less than once every 2 years, as the Secretary shall provide. The Secretary shall notify each public housing agency submitting an updated plan under this paragraph of approval or disapproval of the updated plan as required under paragraph (4)(B), and the provisions of such paragraph shall apply to updated plans under this paragraph.

[(B) CONTENTS.—The updated plan shall include—

[(i) a review of the data and projections contained in the allocation plan and the most recent update submitted under this subsection;

[(ii) an assessment of the accuracy of the projections contained in such plan and update;

[(iii) a statement of the number of times a vacancy was filled pursuant to subsection (a)(4);

[(iv) a statement of the number of times an application for housing assistance by an eligible applicant was denied or delayed because of a lack of appropriately designated units; and

[(v) a plan for adjusting the allocation, if necessary, in accordance with the needs identified pursuant to this subparagraph.

[(C) STANDARDS FOR APPROVAL.—The Secretary shall establish standards for preparation, submission, and approval of updated plans.

[(g) PROHIBITION OF COERCION.—No elderly or disabled family residing in any public housing project may be required to accept services.]

DESIGNATED HOUSING FOR ELDERLY AND DISABLED FAMILIES

SEC. 7. (a) AUTHORITY TO PROVIDE DESIGNATED HOUSING.—

(1) IN GENERAL.—Subject only to provisions of this section and notwithstanding any other provision of law, a public housing agency for which a plan under subsection (d) is in effect may provide public housing projects (or portions of projects) designated for occupancy by (A) only elderly families, (B) only disabled families, or (C) elderly and disabled families.

(2) PRIORITY FOR OCCUPANCY.—In determining priority for admission to public housing projects (or portions of projects) that are designated for occupancy as provided in paragraph (1), the public housing agency may make units in such projects (or portions) available only to the types of families for whom the project is designated.

(3) ELIGIBILITY OF NEAR-ELDERLY FAMILIES.—If a public housing agency determines that there are insufficient numbers

of elderly families to fill all the units in a project (or portion of a project) designated under paragraph (1) for occupancy by only elderly families, the agency may provide that near-elderly families may occupy dwelling units in the project (or portion).

(4) LIMITATION ON OCCUPANCY IN PROJECTS FOR ELDERLY FAMILIES.—

(A) IN GENERAL.—*Subject only to the provisions of subsection (b) and notwithstanding any other provision of law, a dwelling unit in a project (or portion of a project) that is designated under paragraph (1) for occupancy by only elderly families or by only elderly and disabled families shall not be occupied by any individual who is not an elderly person and—*

(i) who currently illegally uses a controlled substance; or

(ii) whose history of illegal use of a controlled substance or use of alcohol, or current use of alcohol, provides reasonable cause for the agency to believe that the occupancy by such individual may interfere with the health, safety, or right to peaceful enjoyment of the premises by other tenants.

(B) CONSIDERATION OF REHABILITATION.—*In determining whether, pursuant to subparagraph (A), to deny occupancy to any individual based on a history of use of a controlled substance or alcohol, a public housing agency may consider the factors under section 16(e)(2).*

(b) STANDARDS REGARDING EVICTIONS.—

(1) LIMITATION.—*Except as provided in paragraph (2), any tenant who is lawfully residing in a dwelling unit in a public housing project may not be evicted or otherwise required to vacate such unit because of the designation of the project (or portion of a project) pursuant to this section or because of any action taken by the Secretary or any public housing agency pursuant to this section.*

(2) REQUIREMENT TO EVICT NONELDERLY TENANTS IN HOUSING DESIGNATED FOR ELDERLY FAMILIES WHO HAVE CURRENT DRUG OR ALCOHOL ABUSE PROBLEMS.—*The public housing agency administering a project (or portion of a project) described in subsection (a)(4)(A) shall evict any individual who occupies a dwelling unit in such a project and who currently illegally uses a controlled substance or whose current use of alcohol provides a reasonable cause for the agency to believe that the occupancy by such individual may interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents. This paragraph may not be construed to require a public housing agency to evict any other individual who occupies the same dwelling unit as the individual required to be evicted.*

(c) RELOCATION ASSISTANCE.—*A public housing agency that designates any existing project or building, or portion thereof, for occupancy as provided under subsection (a) shall provide, to each person and family relocated in connection with such designation—*

(1) notice of the designation and relocation, as soon as is practicable for the agency and the person or family;

(2) comparable housing (including appropriate services and design features), which may include tenant-based rental assistance under section 8, at a rental rate that is comparable to that applicable to the unit from which the person or family has vacated; and

(3) payment of actual, reasonable moving expenses.

(d) *REQUIRED PLAN.*—A plan under this subsection for designating a project (or portion of a project) for occupancy under subsection (a)(1) is a plan, prepared by the public housing agency for the project and submitted to the Secretary, that—

(1) establishes that the designation of the project is necessary—

(A) to achieve the housing goals for the jurisdiction under the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act; and

(B) to meet the housing needs of the low-income population of the jurisdiction; and

(2) includes a description of—

(A) the project (or portion of a project) to be designated;

(B) the types of tenants for which the project is to be designated;

(C) any supportive services to be provided to tenants of the designated project (or portion);

(D) how the agency will secure any additional resources or housing assistance that is necessary to provide assistance to nonelderly disabled families that would have been housed if occupancy in project were not restricted pursuant to this section; and

(E) how the design and related facilities (as such term is defined in section 202(d)(8) of the Housing Act of 1959) of the project accommodate the special environmental needs of the intended occupants.

For purposes of this subsection, the term “supportive services” means services designed to meet the special needs of residents.

(e) *REVIEW OF PLANS.*—

(1) *REVIEW AND NOTIFICATION.*—The Secretary shall conduct a limited review of each plan under subsection (d) that is submitted to the Secretary to ensure that the plan is complete and complies with the requirements of subsection (d). The Secretary shall notify each public housing agency submitting a plan whether the plan complies with such requirements not later than 60 days after receiving the plan. If the Secretary does not notify the public housing agency, as required under this paragraph or paragraph (2), the plan shall be considered, for purposes of this section, to comply with the requirements under subsection (d) and the Secretary shall be considered to have notified the agency of such compliance upon the expiration of such 60-day period.

(2) *NOTICE OF REASONS FOR DETERMINATION OF NONCOMPLIANCE.*—If the Secretary determines that a plan, as submitted, does not comply with the requirements under subsection (d), the Secretary shall specify in the notice under paragraph (1) the

reasons for the noncompliance and any modifications necessary for the plan to meet such requirements.

(3) STANDARDS FOR DETERMINATION OF NONCOMPLIANCE.—The Secretary may determine that a plan does not comply with the requirements under subsection (d) only if—

(A) the plan is incomplete in significant matters required under such subsection; or

(B) there is evidence available to the Secretary that challenges, in a substantial manner, any information provided in the plan.

(4) TREATMENT OF EXISTING PLANS.—Notwithstanding any other provision of this section, a public housing agency shall be considered to have submitted a plan under this subsection if the agency has submitted to the Secretary an application and allocation plan under this section (as in effect before the date of the enactment of the Senior Citizens Housing Safety and Economic Relief Act of 1995) that have not been approved or disapproved before such date of enactment.

(f) EFFECTIVENESS.—

(1) 5-YEAR EFFECTIVENESS OF PLAN.—A plan under subsection (d) shall be in effect for purposes of this section only during the 5-year period that begins upon notification under subsection (e)(1) of the public housing agency that the plan complies with the requirements under subsection (d). An agency may extend the effectiveness of the designation and plan for an additional 2-year period beginning upon the expiration of such period (or the expiration of any previous extension period under this sentence) by submitting to the Secretary any information needed to update such plan.

(2) SAVINGS PROVISION.—Any application and allocation plan approved under this section (as in effect before the date of the enactment of the Senior Citizens Housing Safety and Economic Relief Act of 1995) before such date of enactment shall be considered to be a plan under subsection (d) that is in effect for purposes of this section for the 5-year period beginning upon such approval.

(g) INAPPLICABILITY OF UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITIONS POLICY ACT OF 1970.—No tenant of a public housing project shall be considered to be displaced for purposes of the Uniform Relocation Assistance and Real Property Acquisitions Policy Act of 1970 because of the designation of any existing project or building, or portion thereof, for occupancy as provided under subsection (a) of this section.

(h) INAPPLICABILITY TO INDIAN HOUSING.—The provisions of this section shall not apply with respect to low-income housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority.

LOWER INCOME HOUSING ASSISTANCE

SEC. 8. (a) * * *

* * * * *

(d)(1) Contracts to make assistance payments entered into by a public housing agency with an owner of existing housing units shall provide (with respect to any unit) that—

(A) * * *

(B)(i) the lease between the tenant and the owner shall be for at least one year or the term of such contract, whichever is shorter, and shall contain other terms and conditions specified by the Secretary;

[(ii) the owner shall not terminate the tenancy except for serious or repeated violation of the terms and conditions of the lease, for violation of applicable Federal, State, or local law, or for other good cause;

[(iii) provide that any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other tenants, any criminal activity that threatens the health, safety, or right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the premises, or any drug-related criminal activity on or near such premises, engaged in by a tenant of any unit, any member of the tenant's household, or any guest or other person under the tenant's control, shall be cause for termination of tenancy; and]

(ii) the owner shall not terminate the tenancy except for violation of the terms and conditions of the lease, violation of applicable Federal, State, or local law, or other good cause;

(iii) the owner may terminate the tenancy of the tenant of a unit for any activity, engaged in by the tenant, any member of the tenant's household, or any guest or other person under the tenant's control, that—

(I) threatens the health or safety of, or right to peaceful enjoyment of the premises by, other tenants or employees of the owner or manager of the housing;

(II) threatens the health or safety of, or right to peaceful enjoyment of their residences by, persons residing in the immediate vicinity of the premises; or

(III) is criminal activity (including drug-related criminal activity); and

* * * * *

[INCOME] ELIGIBILITY FOR ASSISTED HOUSING

SEC. 16. (a) Not more than 25 per centum of the dwelling units which were available for occupancy under public housing annual contributions contracts and section 8 housing assistance payments contracts under this Act before the effective date of the Housing and Community Development Amendments of 1981, and which will be leased on or after such effective date shall be available for leasing by low-income families other than very low-income families.

* * * * *

(e) *AUTHORITY TO LIMIT ADMISSION OF DRUG OR ALCOHOL ABUSERS.*—

(1) IN GENERAL.—Notwithstanding any other provision of law, a public housing agency may establish standards for occupancy in public housing dwelling units and assistance under

section 8, that prohibit admission to such units and assistance under such section by any individual—

(A) who currently illegally uses a controlled substance; or

(B) whose history of illegal use of a controlled substance or use of alcohol, or current use of alcohol, provides reasonable cause for the agency to believe that the occupancy by such individual may interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents.

(2) *CONSIDERATION OF REHABILITATION.*—In determining whether, pursuant to paragraph (1), to deny admission or assistance to any elderly person based on a history of use of a controlled substance or alcohol, a public housing agency may consider whether such elderly person—

(A) has successfully completed a supervised drug or alcohol rehabilitation program (as applicable) and is no longer engaging in the illegal use of a controlled substance or use of alcohol (as applicable);

(B) has otherwise been rehabilitated successfully and is no longer engaging in the illegal use of a controlled substance or use of alcohol (as applicable); or

(C) is participating in a supervised drug or alcohol rehabilitation program (as applicable) and is no longer engaging in the illegal use of a controlled substance or use of alcohol (as applicable).

* * * * *

SECTION 255 OF THE NATIONAL HOUSING ACT

DEMONSTRATION PROGRAM OF INSURANCE OF HOME EQUITY CONVERSION MORTGAGES FOR ELDERLY HOMEOWNERS

SEC. 255. (a) * * *

* * * * *

(d) *ELIGIBILITY REQUIREMENTS.*—To be eligible for insurance under this section, a mortgage shall—

(1) * * *

* * * * *

[(3) be secured by a dwelling that is designed principally for a 1-family residence and is occupied by the mortgagor;]

(3) *be secured by a dwelling that is designed principally for a 1- to 4-family residence in which the mortgagor occupies 1 of the units;*

* * * * *

(g) *LIMITATION ON INSURANCE AUTHORITY.*—No mortgage may be insured under this section after September 30, [1995] 2000, except pursuant to a commitment to insure issued on or before such date. The total number of mortgages insured under this section may not exceed [25,000] 50,000. In no case may the benefits of insurance under this section exceed the maximum dollar amount established

under section 203(b)(2) for 1-family residences in the area in which
the dwelling subject to the mortgage under this section is located.

* * * * *

MINORITY VIEWS

The Democratic Members of the Committee on Banking and Financial Services endorse the Senior Citizens Housing Safety and Economic Relief Act of 1995 with reservations. We applaud several of the provisions, including the changes to the mixed populations provisions and the extension and expansion of the Home Equity Conversion Mortgage program. Indeed, many of the policy changes in this bill were enacted by the House last year during consideration of omnibus housing reauthorization legislation that failed to pass the Senate.

However, this bill includes several provisions that we believe represent important policy changes about which we have had little debate and discussion. They represent much more than mere corrections; and we would have preferred regular order rather than the extraordinary process of corrections day for provisions which may not become law during this session of Congress. We also find it somewhat ironic that we must abdicate regular order to amend the United States Housing Act of 1937 which the Chairman of the Subcommittee on Housing and Community Opportunity proposes to repeal in H.R. 2406, his public housing and rental assistance program reform legislation.

Many of the changes proposed in occupancy standards, both admission and eviction policy, and lease and grievance procedures for public housing and the section 8 housing assistance program are policies and procedures for screening and eviction that housing authorities should be employing without statutory requirement. They simply are sound management practices.

However, in making these statutory clarifications, the Minority is concerned that efforts to "protect" the elderly and other residents of public and section 8 housing from actions of others that threaten their safety, health, and peaceful enjoyment do not unfairly and arbitrarily infringe on the rights of innocent and law abiding tenants.

ADMISSIONS

The Committee bill clarifies what current law permits with respect to the provision of assistance to former and current drug users or alcohol abusers. With regard to admission and screening procedures, the Committee bill directs the public housing authority [PHA] to review an applicant's "history" to determine whether that applicant's use of drugs or abuse of alcohol give the PHA reasonable cause to believe that the applicant will threaten the health, safety and welfare of residents. The Minority notes that extra caution must be taken by the PHA in conducting a search of a potential tenant's "history" so that the PHA not inadvertently infringe on a resident's privacy rights as provided by the Constitution of the United States.

We also are concerned that the term "history" must be well defined. Housing authorities under the guise of the term "history" should not be able to deny assistance simply because a former landlord or a former neighbor with a grudge paints an unfavorable portrait of a prospective tenant; nor should housing authorities look back to actions that the applicant took years before he/she applies for housing. As an example someone who was convicted of a crime of illegal use of a controlled substance years ago and has since been law abiding should not automatically be denied admission to public housing or section 8 housing. We believe that in establishing standards to review "history," housing authorities should take great care to limit their review to verifiable and relevant information.

We were pleased that an amendment offered by Representative Flake and Waters, and passed by voice vote, distinguishes that a PHA, in reviewing an elderly applicant's "history", may consider the positive actions taken by the applicant, such as enrollment or completion of a supervised rehabilitation program, to control his/her addictions. This amendment goes a long way to ameliorating our concern that the application process for public housing and section 8 certificates not be applied unfairly and arbitrarily.

Without the inclusion of the Flake/Waters amendment, we believe that H.R. 117 would have authorized the creation of different standards of review for the elderly and the non-elderly; the disabled and the elderly; and the poor and the rich. The Minority believes that every citizen—regardless of their income, disability or age—deserves equal protection under the law. We remain concerned that H.R. 117 does not entirely protect that Constitutional right, even with the inclusion of the constructive amendment of Representatives Flake and Waters.

Finally, in the course of the debate regarding "history", Democratic Members expressed their concern that applicants, who have been denied assistance due to the PHA's evaluation of the applicant's "history", be provided an administrative process under which he/she may appeal the PHA's ruling. Current federal law does not guarantee that right except on the basis of disability, although some state laws do. Democratic Members would urge PHAs, out of regard for fairness, to create an appeals process for those applicants denied housing on the basis of history and not covered under the rubric of the Fair Housing Amendments Act, the Americans for Disabilities Act, and section 504 of the 1973 Rehabilitation Act.

EVICTIONS

The Committee bill changes current law in that it broadens the grounds for evictions in the lease from "drug-related criminal activity" to a "any" activity that threatens the health, safety or right to peaceful enjoyment of the premises, as well. In the event that a resident violates the terms of the lease, the PHA may evict the resident under expedited grievance procedures. We would emphasize that the grievance process, however, must uphold the resident's right to due process.

The Committee bill further requires PHAs to evict non-elderly disabled who reside in buildings designated for the elderly and who

threaten the health safety and peaceful enjoyment of elderly residents due to the non-elderly resident's abuse of alcohol and use of drugs. The Minority applauds the Majority for recognizing at our behest that PHAs may evict disabled non-elderly only for justifiable cause and current behavior. However, we would urge the housing authorities carefully to define justifiable cause and current behavior. However, we would urge the housing authorities carefully to define justifiable cause and current behavior. If a case arises in which a disabled person in good standing in the community falls off the wagon once, disrupting the other residents peaceful enjoyment of the premises, depending on the severity of the disturbance, that resident should not summarily be evicted.

Democratic Members agree that PHAs should have the discretionary authority to evict problematic tenants; but not to the extent that the PHA tramples tenants' right. The bill provides that tenant may be evicted for the actions of others. We would urge PHAs to proceed cautiously in terminating a tenant's housing assistance if that tenant truly is unaware that members of the household are engaging in activity in violation of the lease.

MIXED POPULATIONS' DESIGNATIONS

The Democratic Members support much-needed corrections to the 1992 mixed populations law that permits PHAs to designate elderly-only, disabled-only or elderly-disabled housing, a policy that was initiated on a bipartisan basis during the 102d Congress H.R. 117, as amended by the Committee, adds another chapter to the debate.

The correction to the designation process is one that streamlines the PHA's planning and application process while continuing to balance the needs of the elderly and the disabled in the community. The Minority's only concern with regard to the corrections is that the Committee has not heard testimony regarding the current process. The Committee held its first hearing of the 104th Congress on the problems plaguing public housing communities of elderly and disabled resident the same day as the mark-up and without hearing all viewpoints.

However, we commend the Majority for provisions which continue to balance the housing needs of the elderly with those of the nonelderly disabled population; for protecting current residents from eviction in order to achieve designations; for authorizing relocation assistance; and for requiring that within each plan for designation as housing authority include plans for providing appropriate social and supportive services.

We note, however, that there are no assurances that funding will be available for providing that relocation assistance. Further we continue to believe that if appropriate services are provided to the elderly and disabled, that the two populations can live together harmoniously. On balance, Democratic Members of the Committee support this legislation. But we would encourage PHAs to exercise their discretion in providing housing assistance to many of the most vulnerable in our communities carefully and fairly.

HENRY B. GONZALEZ.
CLEO FIELDS.
BRUCE F. VENTO.
BARNEY FRANK.
FLOYD H. FLAKE.
TOM BARRETT.
MAURICE D. HINCHEY.
NYDIA M. VELÁZQUEZ.
LUCILLE ROYBAL-ALLARD.
MELVIN L. WATT.
MAXINE WATERS.
PAUL E. KANJORSKI.
JOHN J. LAFALCE.
KEN BENTSEN.
ALBERT R. WYNN.
KWEISI MFUME.

ADDITIONAL VIEWS OF REP. JOE KENNEDY

I strongly support the efforts of H.R. 117 to make public housing safe for our senior citizens both through better screening of potential tenants prior to admission, and more streamlined procedures for throwing out the bad actors who threaten the peaceful enjoyment by senior citizens of public housing. This is an effort I have long supported and fought for.

I also support the provision allowing public housing authorities to create elderly-only, disabled-only, and mixed population housing, depending on local needs.

The problem is, given the housing budgets passed by the Republicans, we should understand that the likely outcome of these measures is to reduce the amount of housing built for disabled Americans. They have also voted time and again to cut funds for senior housing and to raise rents on seniors.

The Republicans are paying lip service to elderly housing. Earlier this year however, they opposed an amendment I offered to the HUD Appropriations bill that would have repealed an increase in rents the elderly are charged for assisted housing. The Republicans voted to drastically slash public housing funding, despite the fact that about one-third of public housing residents are elderly. They eliminated incremental section 8 vouchers that the Secretary had been using to move out non-elderly tenants from elderly-only public housing. So, when it comes to funding, the Republicans are prepared to abandon the elderly.

We need to increase funding for housing for the disabled so that the power to create elderly only and disabled-only housing is not simply an empty power.

JOE KENNEDY.

